

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 26, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANGEL P.,¹

Plaintiff,

v.

LELAND DUDEK, Acting
Commissioner of Social Security,²

Defendant.

No. 2:24-cv-348-EFS

**ORDER REVERSING THE ALJ'S
DENIAL OF BENEFITS, AND
REMANDING FOR MORE
PROCEEDINGS**

Plaintiff Angel P. asks the Court to reverse the Administrative Law Judge's (ALJ) denial of Title 16 benefits because the ALJ failed to adequately develop the record, resulting in a decision unsupported by substantial evidence. The Court agrees. This matter is remanded for further proceedings.

¹ For privacy reasons, Plaintiff is referred to by first name and last initial or as "Plaintiff." *See* LCivR 5.2(c).

² Leland Dudek has been named the Acting Commissioner of Social Security. Pursuant to Federal Rule of Civil Procedure 25(d) and 42 U.S.C. § 405(g), he is hereby substituted as the Defendant.

I. Background

On September 14, 2021, Plaintiff applied for benefits at the age of 51 under Title 16, with the alleged disability beginning as of that filing date.³ Plaintiff claims she is unable to work due to breast cancer, fibromyalgia, osteoarthritis in her hip and back, depression, and hip and knee problems.

A. Summary of Medical Treatment

From May through October 2021, Plaintiff received chemotherapy treatments for breast cancer that was diagnosed in April 2021.⁴ Plaintiff also sought treatment in the summer and fall of 2021 for migraines and pain in her neck, low back, left hip, and left knee.⁵ Plaintiff was referred to orthopedic services,⁶ who she saw in October 2021, where she was observed with an antalgic gait, an assistive device, mild edema in the left knee, minimal tenderness in the left hip and SI joint, discomfort in the low back, and a mildly positive straight leg raise in seated and supine positions.⁷ Her range of motion of her bilateral hips was reduced, although she had full strength with mild discomfort with abduction and

³ AR 186–202, 77.

⁴ AR 292–300, 340–417, 418–50, 666–73, 740–47, 818–25, 833, 864–94.

⁵ AR 640–43, 939–41.

⁶ AR 487–89.

⁷ AR 488–89.

1 internal rotations.⁸ The x-rays of her bilateral hips revealed grade 2 changes with
2 the presence of definite osteophytes on the femur and acetabulum with
3 subchondral sclerosis and possible joint space narrowing.⁹

4 In November 2021, a lumpectomy was performed to remove the cancerous
5 breast tumor.¹⁰ From December 2021 through March 2022, Plaintiff had radiation
6 to address her breast cancer.¹¹

7 In April 2022, Plaintiff returned to treatment for her left hip and left knee
8 pain.¹² She was observed with a normal gait and station but with decreased left hip
9 range of motion and with left knee and left hip pain.¹³ The next month she began
10 physical therapy for her left hip, which she continued through June 2022.¹⁴ During
11 the initial physical therapy examination, she was observed with an antalgic gait,
12 favoring the left lower extremity, with reduced motion in her hip and knee: hip
13 flexion, 2/5; hip extension 2+/5; hip abduction, 2+/5; knee flexion, 3/5; and knee
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16 ⁸ AR 488–89.

17 ⁹ AR 489, 517.

18 ¹⁰ AR 476–81.

19 ¹¹ AR 714, 985, 1124–25, 1345.

20 ¹² AR 960.

21 ¹³ AR 962.

22 ¹⁴ AR 992–93, 1007–17.

1 extension 2+/5. She had a positive result with Scour and FABER on her left hip.¹⁵
2 The examiner noted “[t]his patient has an incredibly unstable [left] femoral-
3 acetabular joint.”¹⁶

4 Plaintiff had follow-up oncology appointments from March 2022 through
5 August 2023.¹⁷ Several initial oncology treatment notes state that Plaintiff
6 continues to be fatigued and she had lasting “zinger” nerve pain in the right breast
7 and right armpit.¹⁸ Plaintiff continued to have occasional loss of sensation in the
8 right arm, but by August 2023, Plaintiff reported that her right upper extremity
9 lymphedema had improved, with some physical therapy exercises, although it did
10 come back every now and then.¹⁹ She also reported that she continued to have
11 routine intermittent migraines, which had become worse for a short period of time
12 after hitting her head in December 2022.²⁰

13 In February 2023, Plaintiff again sought treatment for her hip, advising that
14 she was “ready to get her hip and pain figured out now” given that her cancer
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17 ¹⁵ AR 1008.

18 ¹⁶ AR 1008.

19 ¹⁷ AR 994–06, 1019–25, 1124–31, 1311–17.

20 ¹⁸ AR 985–90, 994–1005, 1345–57, 1125–31.

21 ¹⁹ *Id.*

22 ²⁰ AR 1003–06, 1019–25.

1 treatment was complete.²¹ She was referred to physical therapy: “anticipate . . . a
2 referral to ortho and/or for additional imaging.”²²

3 **B. Summary of the Administrative Process**²³

4 As part of the initial-disability review, Wayne Hurley, MD, reviewed the
5 medical records available as of March 1, 2022.²⁴ Dr. Hurley assessed Plaintiff with
6 the following severe impairments: osteoarthrosis and allied disorders, malignant
7 neoplasm of the breast, lumbar spinal stenosis, and disorders of the skeletal
8 spine.²⁵ Dr. Hurley agreed with the disability examiner’s assessment that
9 “claimant did not have sufficient evidence on functional capabilities with diagnoses
10 of bilateral osteoarthritis of the hips, spondylosis of the lumbar region, and
11 primary osteoarthritis of the left knee. I tried to contact her and her attorney with
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16 ²¹ AR 970.

17 ²² AR 972.

18 ²³ The Court’s summary and analysis focuses on the medical opinions and the
19 ALJ’s analysis pertaining to Plaintiff’s physical conditions, as error is required on
20 this basis alone. Of note, there also is no psychological medical opinion of record.

21 ²⁴ AR 105–107.

22 ²⁵ AR 105.

1 no replies. Claimant failure to cooperate.”²⁶ Therefore, no RFC was associated with
2 the claim by Dr. Hurley.²⁷

3 Months later, as part of the reconsideration, the disability examiner noted
4 that he had called the claimant without any contact as the line was disconnected
5 and also spoke with the claimant’s representative, who also said claimant had not
6 responded to multiple attempts by the representative.²⁸ Dr. Susan Clifford
7 reviewed the reconsideration record available to her as of September 3, 2022, and
8 determined that the “evidence in file is insufficient to fully rate the claimant’s
9 alleged physical impairments” of osteoarthritis and allied disorders and malignant
10 neoplasm of the breast.²⁹ The Personalized Disability Explanation text states,
11 “Under the law, the applicant is responsible for furnishing evidence to support the
12 claim. Although you have been requested to furnish additional evidence, you have
13 not done so. Therefore, a determination has been made based on the evidence in
14 file. This evidence does not show that you are disabled.”³⁰

15 After the agency denied benefits, additional medical records were added to
16 the file, including Plaintiff’s physical therapy records and cancer treatment
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18 ²⁶ AR 106 (cleaned up).

19 ²⁷ AR 107.

20 ²⁸ AR 114–15.

21 ²⁹ AR 116–17.

22 ³⁰ AR 121.

1 records.³¹ Plaintiff requested a hearing before an ALJ.³² In October 2023, ALJ
2 Kathryn Preston held a telephone hearing, at which Plaintiff and a vocational
3 expert testified.³³

4 Plaintiff testified that she had previously worked part-time as a cook, ending
5 her employment in July 2019.³⁴ She shared that she lived with her 4-year-old
6 nephew, who she adopted and has cared for since he was 9 months old.³⁵ She
7 testified that her nephew is largely independent, but she does help him shampoo
8 his hair and get dressed.³⁶ He attends preschool most of the day.³⁷

9 She stated she has difficulty seeing the doctor because she does not have a
10 driver's license and must get rides from her two adult sons.³⁸ Plaintiff testified that
11 she has migraines, back and hip pain, back spasms, and difficulty lifting things,
12 sitting, standing for more than 30 minutes, or walking more than a block.³⁹ She

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14 ³¹ AR 104–22, 949–1360.

15 ³² AR 147.

16 ³³ AR 70–121.

17 ³⁴ AR 139–51.

18 ³⁵ AR 82.

19 ³⁶ AR 86.

20 ³⁷ AR 86.

21 ³⁸ AR 83, 94.

22 ³⁹ AR 83, 92.

1 testified that she uses a cane if she goes to the store, but does not need to use it at
2 home as she hangs onto the wall or counters.⁴⁰ She sits most of the day until her
3 hips begin to bother her and then she lays down; she also experiences swelling in
4 her knees, ankles, and feet.⁴¹ She testified that she has good and bad days, with
5 more bad days than good.⁴² She said that she had been getting migraines every
6 other day but now she has them about once per week and they last about 3–5
7 hours.⁴³

8 She shared that her right arm will spasm, her hands will lock up, she is
9 unable to reach above her head, and she has trouble lifting a gallon of milk but she
10 was able to lift a 10-pound bag of sugar recently.⁴⁴ She takes medication for her
11 blood pressure, allergies, asthma, nerves, and nighttime pain.⁴⁵ She testified that
12 during a typical day she washes a couple dishes and vacuums her small house.⁴⁶
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16 ⁴⁰ AR 91–92.

17 ⁴¹ AR 83, 96.

18 ⁴² AR 83–84, 98.

19 ⁴³ AR 89.

20 ⁴⁴ AR 84–85, 93–94.

21 ⁴⁵ AR 83, 88.

22 ⁴⁶ AR 85.

1 She is independent with her personal hygiene but she uses a shower chair.⁴⁷ She
2 stated that she goes the bathroom every half hour.⁴⁸

3 After the hearing, Plaintiff submitted medical records from her orthopedic
4 specialist.⁴⁹ The ALJ then issued a written decision denying benefits.⁵⁰ The ALJ
5 found Plaintiff's alleged symptoms were not entirely consistent with the medical
6 evidence and other evidence.⁵¹ The ALJ considered the lay statement from
7 Plaintiff's adult son.⁵² As to prior administrative medical findings, the ALJ stated
8 "the record includes no prior administrative medical findings as the state agency
9 medical consultants concluded there was insufficient evidence to assess this claim.
10 As the record at the hearing level presents an adequate basis for evaluating the
11 claimant's allegations, these state agency reports are unpersuasive."⁵³ As to
12 medical opinions, the ALJ recognized the record contained Performance Status
13 ratings in the oncology treatment notes, indicating that Plaintiff had a

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15 ⁴⁷ AR 85.

16 ⁴⁸ AR 96.

17 ⁴⁹ AR 1362–74.

18 ⁵⁰ AR 17–29. Per 20 C.F.R. § 416.920(a)–(g), a five-step evaluation determines
19 whether a claimant is disabled.

20 ⁵¹ AR 25–26.

21 ⁵² AR 231–38.

22 ⁵³ AR 27.

1 Performance Status of level one, corresponding to being “ambulatory and able to
2 carry out light or sedentary work” but unable to perform “physically strenuous
3 activity,” which the ALJ found somewhat persuasive.⁵⁴

4 As to the sequential disability analysis, the ALJ found:

- 5 • Step one: Plaintiff had not engaged in substantial gainful activity
6 since September 14, 2021, the protective filing date.
- 7 • Step two: Plaintiff had the following medically determinable severe
8 impairments: right breast cancer - status-post lumpectomy,
9 chemotherapy, and radiation; bilateral hip osteoarthritis with left
10 psoas tendonitis; left knee osteoarthritis; lumbar degenerative disc
11 disease; radiculopathy; migraine; asthma; and obesity.
- 12 • Step three: Plaintiff did not have an impairment or combination of
13 impairments that met or medically equaled the severity of one of the
14 listed impairments.
- 15 • RFC: Plaintiff had the RFC to perform light work:
16 Specifically, the claimant is able to lift up to 20 pounds
17 occasionally and lift/carry up to 10 pounds frequently. She is
18 able to stand/walk for about six hours and sit for up to six hours
19 in an eight-hour workday, with normal breaks. She is unable to
20 climb ladders/ropes/scaffolds, but is occasionally able to climb
21 ramps/stairs, balance, stoop, kneel, crouch, and crawl. She is
22 unable to tolerate exposure to unprotected heights and use of
23 dangerous moving machinery. She is unable to engage in
overhead reaching with the right upper extremity.

54 AR 26-27.

- Step four: Plaintiff was unable to perform past relevant work.
- Step five: considering Plaintiff's RFC, age, education, and work history, Plaintiff could perform work that existed in significant numbers in the national economy, such as cashier, merchandise marker, and sales attendant.⁵⁵

Plaintiff timely requested review of the ALJ's decision by the Appeals Council and now this Court.⁵⁶

II. Standard of Review

The ALJ's decision is reversed "only if it is not supported by substantial evidence or is based on legal error" and such error impacted the nondisability determination.⁵⁷ Substantial evidence is "more than a mere scintilla but less than

⁵⁵ AR 20–29.

⁵⁶ AR 4–9.

⁵⁷ *Hill v. Astrue*, 698 F.3d 1153, 1158 (9th Cir. 2012). *See* 42 U.S.C. § 405(g); *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012)), *superseded on other grounds by* 20 C.F.R. § 416.920(a) (recognizing that the court may not reverse an ALJ decision due to a harmless error—one that "is inconsequential to the ultimate nondisability determination").

1 a preponderance; it is such relevant evidence as a reasonable mind might accept as
2 adequate to support a conclusion.”⁵⁸

3 III. Analysis

4 Plaintiff argues the ALJ failed to develop the record—a record that does not
5 contain a medical opinion—instead relying on her own lay assessment of the
6 medical records to estimate the severity and limiting effects of Plaintiff’s
7 impairments, thereby failing to fully account for Plaintiff’s limitations when
8 crafting the RFC. The Commissioner argues there was no need for the ALJ to
9 further develop the record because the record was adequate to support the RFC. In
10 addition, the Commissioner argues that Plaintiff waived this argument. As is
11 explained below, without a medical opinion, the ALJ failed to fully develop the
12 record, and Plaintiff is not foreclosed from arguing that the RFC is not supported
13 by substantial evidence.

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16 ⁵⁸ *Hill*, 698 F.3d at 1159 (quoting *Sandgathe v. Chater*, 108 F.3d 978, 980 (9th Cir.
17 1997)). *See also* *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (The
18 court “must consider the entire record as a whole, weighing both the evidence that
19 supports and the evidence that detracts from the Commissioner’s conclusion,” not
20 simply the evidence cited by the ALJ or the parties.) (cleaned up); *Black v. Apfel*,
21 143 F.3d 383, 386 (8th Cir. 1998) (“An ALJ’s failure to cite specific evidence does
22 not indicate that such evidence was not considered[.]”).
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1 **A. Develop the Record**

2 “The ALJ always has a special duty to fully and fairly develop the record” in
3 order to make a fair determination as to disability, even where, as here, the
4 claimant is represented by counsel.⁵⁹ This “affirmative responsibility to develop the
5 record” is necessary to ensure the ALJ’s decision is based on substantial evidence.⁶⁰
6 This duty is triggered “when there is ambiguous evidence or when the record is
7 inadequate to allow for proper evaluation of the evidence.”⁶¹

8 As an initial matter, the Commissioner argues that Plaintiff waived any
9 argument that the ALJ failed to develop the record because Plaintiff’s
10 representative submitted records from the orthopedic office post-hearing to the
11 ALJ and requested that the “post hearing development stage of this claim be closed
12 and a decision made at your earliest convenience” “unless there is pending evidence
13 from a consultative examination or from medical or vocational experts.”⁶²

16 ⁵⁹ *Celaya v. Halter*, 332 F.3d 1177, 1183 (9th Cir. 2003) (cleaned up). *See Mayes v.*
17 *Massanari*, 276 F.3d 453, 459 (9th Cir. 2001).

18 ⁶⁰ *Celaya*, 332 F.3d at 1184.

19 ⁶¹ *Id.* at 459-460.

20 ⁶² ECF No. 10 at 3–4 (citing AR 283 and relying on *Flynn v. Comm’r Soc. Sec.*
21 *Admin.*, No. Cv-20-08308-PCT-MTL, 2022 WL 3552433, at *3 (D. Ariz. Aug. 18,
22 2022) (collecting cases).

1 It is the ALJ's duty to ensure there is substantial evidence supporting her
2 decision.⁶³ While Plaintiff would have been better served if her representative
3 affirmatively requested that a consultative examination be conducted or testimony
4 received from a medical expert at the hearing, any such oversight by the
5 representative does not foreclose Plaintiff's challenge here to the lack of substantial
6 evidence supporting the crafted RFC.

7 There is no prior administrative finding or medical opinion of record
8 identifying Plaintiff's functional limitations. The ALJ highlights that the oncology
9 treatment notes include ECOG "Performance Status" ratings:

10 At an October 2021 visit, for example, the claimant was found to have
11 a Performance Status of level one, corresponding to being "ambulatory and able to carry out light or sedentary work" but unable
12 to perform "physically strenuous activity" (see, *e.g.*, *id.* at 16; see
13 also, *e.g.*, Exhibit 12F at 16 (continuing to rate the claimant's
14 Performance Status at level one as of December 2022)). The
15 supportability and consistency of these assessments are limited as
16 there is no evaluation of the claimant's ability to carry out specific
17 basic work activities, the assessments are unaccompanied by any
18 narrative explanation, and the assessments do not appear to account
19 for the claimant's entire combination of impairments including not
20 just her cancer but also her hip, knee, and spine arthritis (see Exhibit
21 3F; Exhibit 8F; Exhibit 10F; Exhibit 12F). To the extent these
22 Performance Status ratings appear to state a maximum capacity for
23 light work as defined in the regulations, however, such an assessment
would be consistent with the evidence on the claimant's health
history, combination of impairments, clinical and radiologic findings,
and course of treatment, during the period at issue, as discussed in
greater detail above (see Exhibit 3F; Exhibit 8F; Exhibit 10F; Exhibit
12F). Based on this partial consistency, these oncology notes are

⁶³ *Celaya*, 332 F.3d at 1183–84.

1 somewhat persuasive, to the extent reflected in the above residual
2 functional capacity.⁶⁴

3 In his Brief, the Commissioner does not contest Plaintiff's argument that the
4 Performance Status ratings do not qualify as medical opinions.⁶⁵ And the Court
5 finds that, on the present record, these Performance Status ratings do not qualify
6 as medical opinions as defined by the social-security regulations:

7 [a] medical opinion is a statement from a medical source about what
8 you can still do despite your impairment(s) and whether you have one
9 or more impairment-related limitations or restrictions in . . . (i)(A)
10 [y]our ability to perform physical demands of work activities, such as
11 sitting, standing, walking, lifting, carrying, pushing, pulling, or other
12 physical functions (including manipulative or postural functions, such
13 as reaching, handling, stooping, or crouching).⁶⁶

14 First, after September 14, 2021, the oncology treatment ECOG Performance
15 Status Grade 1 notes include both "work of a light or sedentary nature," and thus
16 does not serve as substantial evidence to support the ALJ's modified light-work
17 RFC, rather than a sedentary-work RFC, particularly considering Plaintiff's hip,
18 knee, and spine impairments, which showed reduced range of motion in her left hip
19 and knee and instability of her left femoral-acetabular joint.⁶⁷ Moreover, the
20 medical records reflect that Plaintiff experienced cumulative fatigue, anemia, and
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22 ⁶⁴ AR 26–27.

23 ⁶⁵ ECF No. 10.

⁶⁶ 20 C.F.R. § 416.913(a)(2).

⁶⁷ See AR 330, 352, 360, 531, 718, 752, 959–62, 992, 1005, 1129, 1348.

pain in her right breast and armpit due to cancer treatments, as well as suffered from migraines.

Second, there is no evidence indicating that oncology providers were offering an opinion about Plaintiff's ability to sustain the physical demands of a full-time job.⁶⁸ Instead, the purpose of the Performance Status ratings was to measure how Plaintiff's cancer treatment impacted her selfcare and other activities:⁶⁹

GRADE	ECOG PERFORMANCE STATUS
0	Fully active, able to carry on all pre-disease performance without restriction
1	Restricted in physically strenuous activity but ambulatory and able to carry out work of a light or sedentary nature, e.g., light house work, office work
2	Ambulatory and capable of all selfcare but unable to carry out any work activities; up and about more than 50% of waking hours
3	Capable of only limited selfcare; confined to bed or chair more than 50% of waking hours
4	Completely disabled; cannot carry on any selfcare; totally confined to bed or chair
5	Dead

⁶⁸ See Social Security Ruling (SSR) 96-8p (defining a "regular and continuing basis" to mean "8 hours a day, for 5 days a week, or an equivalent work schedule").

⁶⁹ <https://ecog-acrin.org/resources/ecog-performance-status/#:~:text=It%20describes%20a%20patient's%20level%20of%20functioning,ca ncer%20clinical%20trials%20to%20study%20new%20treatments> (last viewed Feb. 26, 2025)

1 There is no information before the Court that “work of a light or sedentary nature”
2 under Grade 1 is consistent with “light work” or “sedentary work” for social-
3 security purposes.⁷⁰ Instead, when considering the ECOG Performance Status
4 Scale along with the other scale used to assess the functional status of cancer
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8 ⁷⁰ 20 C.F.R. § 416.967(a) (“Sedentary work involves lifting no more than 10 pounds
9 at a time and occasionally lifting or carrying articles like docket files, ledgers, and
10 small tools. Although a sedentary job is defined as one which involves sitting, a
11 certain amount of walking and standing is often necessary in carrying out job
12 duties. Jobs are sedentary if walking and standing are required occasionally and
13 other sedentary criteria are met.”); *Id.* § 416.967(b) (“Light work involves lifting no
14 more than 20 pounds at a time with frequent lifting or carrying of objects weighing
15 up to 10 pounds. Even though the weight lifted may be very little, a job is in this
16 category when it requires a good deal of walking or standing, or when it involves
17 sitting most of the time with some pushing and pulling of arm or leg controls. To be
18 considered capable of performing a full or wide range of light work, you must have
19 the ability to do substantially all of these activities. If someone can do light work,
20 we determine that he or she can also do sedentary work, unless there are
21 additional limiting factors such as loss of fine dexterity or inability to sit for long
22 periods of time.”).

patients—Karnofsky Performance Status Scale—it seems that ECOG Grade 1 includes persons who are unable to “carry on normal activity or do active work”:⁷¹

ECOG PERFORMANCE STATUS	KARNOFSKY PERFORMANCE STATUS
0—Fully active, able to carry on all pre-disease performance without restriction	100—Normal, no complaints; no evidence of disease 90—Able to carry on normal activity; minor signs or symptoms of disease
1—Restricted in physically strenuous activity but ambulatory and able to carry out work of a light or sedentary nature, e.g., light house work, office work	80—Normal activity with effort, some signs or symptoms of disease 70—Cares for self but unable to carry on normal activity or to do active work

Thus, it appears that ECOG Performance Grade 1 may include persons who are unable to sustain fulltime work.

It was error for the ALJ to find these Performance Status ratings “somewhat persuasive to the extent reflected in the” modified light-work RFC. Rather than base her RFC on a medical opinion or administrative finding, the ALJ interpreted the raw medical data to formulate Plaintiff’s RFC. The ALJ should have instead obtained a medical opinion on Plaintiff’s functional capacity.⁷² This is a record that

⁷¹ <https://ecog-acrin.org/resources/ecog-performance-status/> (last viewed Feb. 26, 2025).

⁷² See, e.g., Hearing, Appeals, and Litigation Law Manual (HALLEX) I-2-5-32 & I-2-5-34.

1 clearly establishes severe impairments but is ambiguous as to Plaintiff's resulting
2 functional limitations. Without a medical opinion, the current record is inadequate
3 to allow for proper formulation of an RFC.⁷³ This is not a case where Plaintiff is
4 arguing that an updated medical opinion is needed in order for the ALJ to properly
5 formulate the RFC—here, there was no medical opinion on which the ALJ relied.
6 Dr. Hurley and Dr. Clifford themselves stated that the medical records at the time
7 they reviewed the file were insufficient to fully rate Plaintiff's physical
8 impairments.⁷⁴ The ALJ should have either called a medical expert to testify or
9 have informed Plaintiff that she was to appear at a consultative examination.⁷⁵ On
10 remand, the ALJ is to obtain a medical opinion from a source who has been
11 afforded an opportunity to review the medical record, and the ALJ is to then make
12 findings at each of the five steps of the sequential-evaluation process.

14 ⁷³ Contrary to the Commissioner's argument, *Farlow v. Kijakazi* does not stand for
15 the proposition that in the absence of a medical opinion in the record the ALJ may
16 interpret raw medical data and formulate a claimant's RFC. 53 F.4th 585, 588 (9th
17 Cir. 2022) (affirming the ALJ's decision to give little weight to the only medical
18 opinion of record because the ALJ cited specific medical evidence that contravened
19 the medical opinion).

20 ⁷⁴ AR 106, 117.

21 ⁷⁵ If a claimant fails to attend a consultative examination, the ALJ is to consider
22 whether the claimant had a good reason for failing to attend. 20 C.F.R. § 416.918.
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B. Other Steps: The ALJ must reevaluate on remand.

Given the ALJ's error, the Court does not analyze Plaintiff's remaining claims. Further development is necessary to resolve ambiguities and allow for a proper disability determination.⁷⁶

IV. Conclusion

Plaintiff establishes the ALJ erred. On remand, the record is to be developed, and the ALJ is to reevaluate—with meaningful articulation and evidentiary support—the sequential process.

Accordingly, **IT IS HEREBY ORDERED:**

1. The ALJ's nondisability decision is **REVERSED**, and this matter is **REMANDED** to the Commissioner of Social Security for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).
2. The Clerk's Office shall **TERM** the parties' briefs, **ECF Nos. 8 and 10**, enter **JUDGMENT** in favor of **Plaintiff**, and **CLOSE** the case.

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⁷⁶ See *Leon v. Berryhill*, 880 F.3d 1041, 1045 (9th Cir. 2018); *Garrison v. Colvin*, 759 F.3d 995, 1020 (9th Cir. 2014).

1 IT IS SO ORDERED. The Clerk's Office is directed to file this order and
2 provide copies to all counsel.

3 DATED this 26th day of February 2025.

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5 EDWARD F. SHEA
6 Senior United States District Judge
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